

Remarks/Arguments:

Applicant appreciates the time and courtesy extended by the Examiner during the telephone interview held with the undersigned on October 4, 2004. Exemplary claims 37 and 60 were discussed as they relate to the prior art references applied to those claims in the Office Action dated April 7, 2004.

The pending claims are 37-52, 60, 66, 72, 79, 84, 90, 97, 102, 104 and 105. Claims 104 and 105 have been added. No new matter is introduced therein.

Each of the pending claims is directed to a container system including a container and a carrier. Claims 60, 66, 72, 79, 84, 90, 97, and 102 have been reformatted to more clearly show the features that are part of the carrier. This reformatting does not constitute an amendment—the wording of the claims has not been changed.

Pursuant to the interview, each of the pending claims (including newly added claims 104 and 105) is addressed separately in the following paragraphs.

Claim 37**A. Brochure**

Claim 37 has been rejected under 35 U.S.C. § 102(b) as anticipated by an “on sale” bar based on the SHARPSCART Foot Pedal Cart Order No. 8938FP shown on page 16 of the SHARPSCART Brochure (“Brochure” or “SHARPSCART Brochure”).

Page 3 of the Office Action proposes an interpretation of the apparatus shown in the Brochure. The Office Action specifically proposes that the “arm” recited in claim 37 is considered to be any of the two longitudinal, solid bars and a longitudinal, cylindrical sleeve (all said to define arms coupled to the body of the carrier for reciprocal extension along a longitudinal axis of the arm). The Office Action then proposes that “the arm engages the door through a connection of transverse arm(s) and an upwardly projecting hook.” Applicant respectfully disagrees.

“Engage” means “to interlock” or “mesh.” *Acromed Corp. v. Sofamor Danek Group, Inc.*, 253 F.3d 1371, 59 USPQ 2d 1130, 1137 (Fed. Cir. 2001) (citing Webster’s II New Riverside University Dictionary 433 (1988)). See also *Innova/Pure Water, Inc. v. Safari Water Filtration*

Systems, Inc., No. 04-1097 (Fed. Cir. 8/11/04) (the Federal Circuit disagreed with an interpretation of “operatively connected” as requiring two components to be affixed by some means of physical engagement).

Referring to Figs. 2, 4 and 7 of this application for illustration, one exemplary embodiment of an extension or arm includes a first portion (e.g., comprised of an arm portion 202) and a second portion (e.g., comprised of a pin portion 209 attached at the end of the arm portion 202). In the illustrated embodiment, the pin portion 209 is provided to engage the door of the container. More specifically, the pin portion 209 extends into the upwardly extending recess 28 formed in the door 26 of the lid 24. As recited in the application:

The carrier also includes an extension that is coupled for reciprocal movement with respect to the body of the carrier. The extension is adapted for **engagement** with the door of the container. The reciprocal movement of the extension is adapted to reciprocate the door of the container between the opened and closed positions. (page 2, lines 26-30 (emphasis added))

The carrier 100 also includes an extension or arm 202 coupled for reciprocal movement with respect to the body 105. The arm 202 is adapted for **engagement** with the door 26 of the medical waste container 20. The reciprocal movement of the arm 202 is adapted to reciprocate the door 26 of the medical waste container 20 between the opened and closed positions. (page 4, line 29 to page 5, line 3 (emphasis added))

The pin 209 is provided to **engage** the door of the container. More specifically, the pin 209 extends into the upwardly extending recess 28 formed in the door 26 of the lid 24. (page 13, lines 13-16 (emphasis added))

Accordingly, it is by means of the pin portion 209 of the arm that the arm engages the door of the container.

In contrast to its plain meaning and in contrast to Applicant’s specification, the Office Action appears to interpret “engaging” too broadly so as to encompass a structure in which “the arm engages the door through a connection of transverse arm(s) and an upwardly projecting hook.” Applicant respectfully submits that this is not a reasonable interpretation of “engaging.”

When a reasonable interpretation of “engaging” is adopted based on its plain meaning and its use in Applicant’s specification, the structures of the Brochure cited in the Office Action

fail to correspond to Applicant's claimed arm. If, for example, the front one (toward the user) of the two transverse members extending across the top of the product shown in the Brochure is said to engage the door of the container via an upwardly projecting hook, it should be noted that that transverse member is not coupled to the body of the carrier for reciprocal extension *along its longitudinal axis* as recited in claim 37; its longitudinal axis is instead transverse. And if the longitudinal, cylindrical sleeve along the side of the product shown in the Brochure is said to be coupled to the body of the carrier for reciprocal extension along its longitudinal axis, it should be noted that that sleeve is not engaging the door of the container as recited in claim 37, given a reasonable interpretation of "engaging".

For these reasons, it is respectfully submitted that "engaging" is not reasonably construed to encompass a connection via transverse arm(s) and an upwardly projecting hook. Accordingly, even if it is assumed (which is not conceded) that the Brochure discloses a structure corresponding to Applicant's claimed arm, there is no basis to conclude that the Brochure discloses the feature of "said arm engaging said door of said container."

For all of the foregoing reasons, claim 37 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

B. Sosan in view of Mosior

Claim 37 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

As acknowledged in the Office Action in the last paragraph of page 2, Sosan does not disclose an inner container. Mosior discloses a waste container having a top with a slidable closure. The Office Action contends that it would have been obvious to add Mosior's container to the carrier in Sosan in order to provide both a carrier and an inner container. Applicant respectfully disagrees.

Claim 37 is directed to a modular container system. Claim 37 recites, in part, "a container having a door" and "a carrier comprising a body receiving the container."

Both the Sosan and Mosier references disclose containers. The trash bin of Sosan is not a carrier for other containers; it instead holds trash bags. There is no suggestion in either reference that the container of Mosior would be useful in the Sosan container. In fact, Sosan

teaches away from the receipt of a container such as that shown in Mosior. Sosan has its own door 22. Sosan is designed to hold trash bags that may be inserted and removed. (Abstract) For these reasons alone, claim 37 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

Claim 37 also recites: "said arm [of said carrier] engaging said door of said container." The Office Action contends that it would have been obvious to insert the Mosior container into the "carrier" of Sosan. Even if that were an accurate characterization (which is not conceded), there is no disclosure or suggestion in either Sosan or Mosior that push rod 46 of Sosan (or any other structure disclosed by Sosan) should or even could be used to engage a door of another container such as the one disclosed by Mosior.

Page 3 of the Office Action notes that, in Sosan, "the push rod [46] under the action of the compression springs pushes the flap or door 22 shut." However, even when the Office Action's interpretation of Sosan is applied to claim 37, it is seen that the push rod 46 does not engage a container received within the body of a carrier. In other words, even accepting *arguendo* the Office Action's proposed combination of Sosan with Mosior, the proposed combination does not disclose or suggest "said arm engaging said door of said container" as recited in claim 37.

As set forth in MPEP Section 2143 ("Basic Requirements of a *Prima Facie* Case of Obviousness"), the prior art reference (or references when combined) must teach or suggest every claim limitation:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Also, as set forth in MPEP Section 2143.03 ("All Claim Limitations Must Be Taught or Suggested"):

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In *re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." In *re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Because the proposed combination of Sosan and Mosior does not teach or suggest all of the claim limitations of claim 37, and for all of the other reasons stated above, claim 37 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

Claim 38**Sosan in view of Mosior**

Claim 38 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior. For the reasons stated above with respect to claim 37, dependent claim 38 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

Claim 39**A. Brochure**

Claim 39 has been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure. For the reasons stated above with respect to claim 37, dependent claim 39 is also not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

B. Sosan in view of Mosior

Claim 39 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior. For the reasons stated above with respect to claim 37, dependent claim 39 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

Claim 40**A. Brochure**

Claim 40 has been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure. For the reasons stated above with respect to claim 37, dependent claim 40 is also not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

B. Sosan in view of Mosior

Claim 40 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior. For the reasons stated above with respect to claim 37, dependent claim 40 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

Claim 41

A. Brochure

Claim 41 has been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure. For the reasons stated above with respect to claim 37, dependent claim 41 is also not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

B. Sosan in view of Mosior

Claim 41 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior. For the reasons stated above with respect to claim 37, dependent claim 41 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

Claim 42

Sosan in view of Mosior

Claim 42 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior. For the reasons stated above with respect to claim 37, dependent claim 42 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

Claim 43

Sosan in view of Mosior

Claim 43 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior. For the reasons stated above with respect to claim 37, dependent claim 43 is

also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

Claim 44

Sosan in view of Mosior and further in view of Baker

Claim 44 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker. As shown above, the proposed Sosan-Mosior combination does not disclose or suggest all of the features of claim 37, which features are incorporated into claim 44.

Baker fails to overcome the deficiencies of the proposed Sosan-Mosior combination. Baker is applied because it is said in the Office Action to disclose a locking member and a barrier (30). Even if the proposed Sosan-Mosior-Baker combination is made, however, the limitations set forth above in the discussion of claim 37 are not found in the proposed Sosan-Mosior-Baker combination.

Since neither the proposed Sosan-Mosior combination nor Baker, even when combined as proposed in the Office Action, teach or suggest all of the claim limitations of claim 44, claim 44 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker. *Prima facie* obviousness has not been established.

Claim 45

Sosan in view of Mosior and further in view of Baker

Claim 45 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker. For the reasons stated above with respect to claim 44, dependent claim 45 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker.

Claim 46

Sosan in view of Mosior and further in view of Baker

Claim 46 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker. For the reasons stated above with respect to claim

44, dependent claim 46 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker.

Claim 47**Sosan in view of Mosior and further in view of Baker**

Claim 47 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker. For the reasons stated above with respect to claim 44, dependent claim 47 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker.

Claim 48**Sosan in view of Mosior and further in view of Baker**

Claim 48 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker. For the reasons stated above with respect to claim 44, dependent claim 48 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker.

Claim 49**Sosan in view of Mosior and further in view of Baker**

Claim 49 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker. For the reasons stated above with respect to claim 44, dependent claim 49 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker.

Claims 50-52

Applicant notes with appreciation the Examiner's statement that claims 50-52 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant respectfully submits that claims 50-52 are allowable in their current form because claim 37, upon which they depend, is allowable.

Claim 60

Claim 60 recites "a carrier holding said container"; "a body portion at least partially defining a cavity receiving said container"; "a hood portion . . . extending over at least a portion of said container"; and an arm "engaging said door of said container, and said reciprocal movement of said arm reciprocating said door of said container between said opened and closed positions."

As noted at the beginning of these Remarks, claim 60 has been reformatted to more clearly show the features that are part of the carrier and not part of the container. For example, claim 60 recites that the carrier (not the container) has a body portion, a hood portion, and an arm. Accordingly, claim 60 can be rejected under 35 U.S.C. § 102(b) only if a reference discloses a carrier having the recited features.

A. Marek

Claim 60 has been rejected under 35 U.S.C. § 102(b) as "clearly" anticipated by Marek.

It appears that the April 7, 2004 Office Action may be relying upon the reasoning set forth in the Office Action dated July 17, 2003. On page 2 of the July 17, 2003 Office Action, claim 60 had been rejected based on the contention that Marek had a hypothetical door of a hypothetical container. Such an analysis is no longer applicable in view of subsequent amendment to claim 60 (on January 16, 2004). A comparison of claim 60 at the time of the July 17, 2003 Office Action and current claim 60 illustrates why the "hypothetical" analysis does not apply to claim 60, as amended:

Original Claim 60	Current claim 60
A container system comprising:	A container system comprising:
a container having a door mounted for reciprocation between opened and closed positions; and	a container having a door mounted for reciprocation between opened and closed positions; and
a carrier configured to hold said container, said carrier comprising:	a carrier holding said container, said carrier comprising:
a body portion at least partially defining a cavity	a body portion at least partially defining a

sized to receive said container;	cavity receiving said container;
a hood portion coupled to the body portion and configured to extend over at least a portion of said container when the container is received in said cavity of said body portion; and	a hood portion coupled to the body portion and extending over at least a portion of said container; and
an arm coupled to said hood for reciprocal movement with respect to said hood, said arm being adapted for engagement with said door of said container, and said reciprocal movement of said arm being adapted to reciprocate said door of said container between said opened and closed positions.	an arm coupled to said hood for reciprocal movement with respect to said hood, said arm engaging said door of said container, and said reciprocal movement of said arm reciprocating said door of said container between said opened and closed positions.

Claim 60 therefore does not recite a hypothetical container. Instead, it affirmatively recites, for example, "a carrier holding said container."

Anticipation requires that all of the elements and limitations of the claim are found within a single prior art reference. *Carella v. Starlight Archery and Pro Line Co.*, 804 F.2d 135, 138, 231 USPQ 644, 646 (Fed. Cir. 1986); *RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). There must be no difference between the claimed invention and the reference disclosure as viewed by a person of ordinary skill in the field of the invention. *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 USPQ 2d 1001, 1010 (Fed. Cir. 1991). See also, MPEP 2131 ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.").

Marek does not show any of the following features recited in claim 60:

- (1) a container having a door and a carrier actually holding the container;
- (2) a carrier having a hood extending over a portion of the container; and
- (3) an arm coupled to the hood and engaging the door of the container (it is respectfully submitted that Page 2 of the July 17, 2003 Office Action misinterpreted this phrase as reciting an arm coupled to the body portion of the carrier; instead, claim 60 recites that the arm is coupled to the hood).

Marek fails to suggest an arm of a carrier engaging a door of a container that is held within the carrier. Instead, a flange 56 (referred to in the Office Action) of Marek is a component of a door 50 of Marek's cover assembly. Since there is no container having a door positioned inside the Marek container; instead, and as recited by Marek at column 3, lines 5-12, Marek's container is assembled around a cardboard box the flaps of which are folded down against the outside of the box while it is inside the container. Accordingly, flange 56 does not and can not engage any door structure contained within Marek's container.

For all of these reasons, claim 60 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

B. Brochure

Claim 60 has also been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

Claim 60 recites (among other features) that a reciprocally movable arm coupled to the hood of a carrier engages the door of a container. None of the structures disclosed in the Brochure corresponds to an arm that is:

- (1) coupled to a hood for reciprocal movement with respect to the hood, and
- (2) engaging a door of a container, wherein the movement of the arm with respect to the hood reciprocates the door of the container between opened and closed positions.

It is respectfully submitted that the SHARPSCART Brochure fails to disclose or suggest any structure coupled to a hood for reciprocal movement with respect to the hood. In connection with claim 37, the Office Action proposed that various features shown in the Brochure could correspond to Applicant's claimed arm:

The brochure discloses two longitudinal, solid bars and a longitudinal, cylindrical sleeve which all define arms coupled to the body for reciprocal extension along a longitudinal axis of the arm between an extended position and a retracted position, the longitudinal axis of the arm is parallel to the path of the door of the container, the arm engages the door through a connection of transverse arm(s) and an upwardly projecting hook.

Assuming *arguendo* that one of the foregoing structures cited in the Office Action could correspond to Applicant's claimed arm (which is not conceded), none of the cited structures is

coupled to a hood for reciprocal movement with respect to the hood, wherein that reciprocal movement reciprocates a door of a container between opened and closed positions.

For the foregoing reasons, claim 60 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

C. Sosan

Claim 60 has also been rejected under 35 U.S.C. § 102(b) as anticipated by Sosan.

In discussing claim 37, page 2 of the Office Action acknowledges that "Sosan discloses the carrier but does not disclose an inner container of the combination" (emphasis added). Because a rejection under § 102(b) can be maintained only if all of the features are shown in a single reference, Sosan cannot anticipate claim 60 because Sosan does not disclose "a carrier holding said container" (as acknowledged in the Office Action). In addition, Sosan does not disclose an arm that is part of the carrier and that engages the door of a container that is held by the carrier. Also, Sosan does not disclose an arm on the carrier, coupled to a hood on the carrier, that reciprocates the door of a container inside the carrier. Therefore, claim 60 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Sosan.

Claim 66

A. Marek

Claim 66 has been rejected under 35 U.S.C. § 102(b) as anticipated by Marek. The rejection is respectfully traversed.

Marek shows a box comprising various panels 12, 14, 20, 26, 28. There is no disclosure stating that any of those panels are hollow; instead, Marek discloses the use of .063 inch thick aluminum sheet to make its panels (column 2, lines 53-55). Marek also fails to suggest any structure that could extend through an interior of Marek's panels. Since Marek does not disclose all of the features recited in claim 66, claim 66 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

B. Brochure

Claim 66 has also been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure. The rejection is respectfully traversed.

Page 4 of the July 17, 2003 Office Action contended that the device shown in the Brochure has a hollow wall portion. Applicant respectfully disagrees. The device shown in the Brochure has a metal frame comprising some horizontal members that surround the container. The metal frame cannot reasonably be considered to be a wall that is substantially hollow. Finally, no component of the SHARPSCART can be said to extend through an interior of a hollow wall portion. Therefore, claim 66 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

C. Sosan

Claim 66 has also been rejected under 35 U.S.C. § 102(b) as anticipated by Sosan.

Sosan does not disclose that any of its walls is hollow or that any of its components extend through an interior of a hollow wall portion. In fact, Sosan suggests the opposite -- cable fasteners 45 are used to attach a push-pull cable 30 to the body of a bin by means of screws 47 (column 3, lines 54-56). Therefore, claim 66 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Sosan.

Claim 72

A. Marek

Claim 72 has been rejected under 35 U.S.C. § 102(b) as anticipated by Marek.

Marek does not disclose a carrier actually holding a container, wherein an arm coupled to a hood of the carrier is engaged to a door of a container within the carrier, and wherein the arm is adapted to reciprocate the door of the container between closed and opened positions. The distinctions of claim 60 discussed above with respect to Marek apply to claim 72 and are incorporated here by reference. Accordingly, amended claim 72 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

B. Brochure

Claim 72 has also been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

The Brochure fails to suggest at least the following features recited in claim 72:

- (1) a carrier holding a container that has a door mounted for reciprocation between opened and closed positions;
- (2) a body portion receiving the container;
- (3) a hood extending over at least a portion of the container; and
- (4) an arm coupled to the hood for reciprocal movement and engaged to the door of the container.

Accordingly, and for the reasons articulated in connection with claim 60 above (incorporated here by reference), claim 72 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART BROCHURE.

C. Sosan

Claim 72 has also been rejected under 35 U.S.C. § 102(b) as anticipated by Sosan.

Sosan does not disclose "an inner container of the combination" as conceded in page 2 of the Office Action's discussion of claim 37; or that the carrier has a "body portion at least partially defining a cavity receiving the container"; or that the carrier has "a hood coupled to the body portion and extending over at least a portion of the container." Additionally, Sosan fails to disclose or suggest that an arm coupled to a hood is engaged to the door of a container within a carrier and is adapted to reciprocate the door of the container between the closed and opened positions. Accordingly, claim 72 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Sosan.

Claim 79

A. Marek

Claim 79 has been rejected under 35 U.S.C. § 102(b) as anticipated by Marek.

Marek does not disclose a container system as recited in claim 79. Specifically, flange 56 of Marek does not have a first portion coupled to a rotatable hood with a longitudinal axis substantially parallel to its reciprocal movement. Flange 56 also does not have a second portion angled with respect to the first portion and engaging a surface of a door. Accordingly, claim 79 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

B. Brochure

Claim 79 has also been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

Page 4 of the July 17, 2003 Office Action contends that the arm recited in claim 79 may be considered to be "the transverse bars which extend over the opening." See also, pages 4-5 ("The arm has a first portion (the horizontally extending straight bar extending over the opening to the container) coupled to the rotatable hood.). Even accepting the interpretation of the SHARPSCART Brochure proposed in the Office Action (which is not conceded), the transverse bars do not have "a longitudinal axis substantially parallel to the reciprocal movement." Accordingly, for at least the foregoing reasons, claim 79 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

C. Sosan

Claim 79 has also been rejected under 35 U.S.C. § 102(b) as anticipated by Sosan.

The structure 46 of Sosan does not have a second portion, angled with respect to a first portion, and engaging a surface of a door of a container received in a carrier. Sosan fails even to suggest an arm coupled for reciprocal movement with respect to a rotatable hood of a carrier along an axis of the arm, wherein the arm has a first portion coupled to the rotatable hood with a longitudinal axis substantially parallel to its reciprocal movement and a second portion angled with respect to the first portion and engaging a surface of a door of a container received in the carrier when the rotatable hood is in a first position. Accordingly, claim 79 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Sosan.

Claim 84

A. Marek

Claim 84 has been rejected under 35 U.S.C. § 102(b) as anticipated by Marek. Marek does not teach or suggest a hood that is rotatable between first and second positions or a keyed lock for locking a hood. Accordingly, claim 84 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

B. Brochure

Claim 84 has also been rejected under 35 U.S.C. § 102(b) as anticipated by an “on sale” bar based on page 16 of the SHARPSCART Brochure. The Brochure does not disclose a keyed lock on a hood. Accordingly, claim 84 is also not subject to rejection under 35 U.S.C. § 102(b) as anticipated by page 16 of the SHARPSCART Brochure.

C. Sosan

Claim 84 has also been rejected under 35 U.S.C. § 102(b) as anticipated by Sosan. Sosan does not teach a keyed lock for locking a hood. In fact, on page 7, the Office Action acknowledges that Sosan does not disclose a lock. Accordingly, claim 84 is also not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Sosan.

Claim 90

A. Marek

Claim 90 has been rejected under 35 U.S.C. § 102(b) as anticipated by Marek.

Marek fails to disclose “at least one integral protruding surface positioned to inhibit removal of the container when the hood is in the first position.” Accordingly, claim 90 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

B. Brochure

Claim 90 has also been rejected under 35 U.S.C. § 102(b) as anticipated by an “on sale” bar based on page 16 of the SHARPSCART Brochure.

Even assuming *arguendo* that the horizontal silver bar across the middle of the device shown in the Brochure could be used to inhibit removal of the container, it does not appear to be “integral” to the body as recited in claim 90. Accordingly, for this additional reason, claim

90 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

C. Sosan

Claim 90 has also been rejected under 35 U.S.C. § 102(b) as anticipated by Sosan.

Sosan fails to disclose "at least one integral protruding surface positioned to inhibit removal of the container when the hood is in the first position." Accordingly, claim 90 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Sosan.

Claim 97

A. Marek

Claim 97 has been rejected under 35 U.S.C. § 102(b) as anticipated by Marek.

Marek does not disclose "a hood hinged to said body for rotation" or "a stop adjacent said hood and positioned to limit a range of movement of the rotatable hood." Accordingly, claim 97 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

B. Brochure

Claim 97 has also been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

Page 4 of the July 17, 2003 Office Action contends that "the hood comprises the stainless steel U-shaped bars which are bolted to the top of the carrier and the pivoting and sliding mechanism." The Office Action does not include, within the definition of the hood, the transverse bars extending over the opening. Instead, the Office Action contends that the transverse bars "are the arm coupled to the hood for reciprocal movement with respect to the hood." Accordingly, the Office Action fails to identify a structure in the Brochure corresponding to a hood "configured to cover at least a portion of the container", and claim 97 therefore is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

C. Sosan

Claim 97 has also been rejected under 35 U.S.C. § 102(b) as anticipated by Sosan.

There is no disclosure in Sosan of a "stop adjacent said hood." Accordingly, claim 97 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Sosan.

Claim 102

A. Marek

Claim 102 has been rejected under 35 U.S.C. § 102(b) as anticipated by Marek.

Flange 56 of Marek does not engage a door of a container that is held by a carrier and does not reciprocate the door of the container. Also, Marek fails to suggest a body portion formed from rotationally-molded plastic; instead, Marek suggests the use of .063 inch aluminum sheet to make its panels. For all of the above reasons, claim 102 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

B. Brochure

Claim 102 has also been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

The SHARPSCART Foot Pedal Cart Order No. 8938FP, which is shown in the enlarged view on Page 16 of the Brochure, fails to suggest a body portion formed from rotationally-molded plastic; it is instead formed by a system of metallic wires. Therefore, claim 102 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

C. Sosan

Claim 102 has also been rejected under 35 U.S.C. § 102(b) as anticipated by Sosan.

Sosan does not disclose an arm of a carrier that engages the door of a container that is held by the carrier and does not disclose an arm that reciprocates the door of such a container. While Sosan states that the door 22, upper portion 24, and lower portion 26 can be made of plastic, rubber, wood or metal (column 3, lines 40-42), there is no suggestion in Sosan of a rotationally-molded structure. Therefore, claim 102 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Sosan.

New Claim 104

New claim 104 is dependent upon claim 66. It is respectfully submitted that claim 104 is patentable over the prior art cited against claim 66 for at least the reasons stated previously in connection with claim 66.


New Claim 105

New claim 105 is dependent upon claim 97. It is respectfully submitted that claim 105 is patentable over the prior art cited against claim 97 for at least the reasons stated previously in connection with claim 97.

Conclusion

For the foregoing reasons, it is respectfully submitted that this application is now in form for allowance. A Notice of Allowance is respectfully requested.

Respectfully submitted,



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